

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Retrophin, Inc.,	)	
	)	
Plaintiff,	)	Case No.:
	)	
v.	)	
	)	
	)	8:14-CV-00026 - JLS (JPR) pending in
Questcor Pharmaceuticals, Inc.,	)	the United States District Court for the
	)	Central District of California
Defendant.	)	
	)	

**NON-PARTY MARATHON PHARMACEUTICALS, LLC’S  
MOTION TO MODIFY DEFENDANT’S SUBPOENA TO PRODUCE DOCUMENTS**

Pursuant to Federal Rules of Civil Procedure 26 and 45, non-party Marathon Pharmaceuticals, LLC (“Marathon”), by and through its attorneys, respectfully submits this Motion (the “Motion”) to Modify Defendant’s Subpoena to Produce Documents (the “Subpoena”) issued by Defendant Questcor Pharmaceuticals, Inc. (“Questcor”) in the above-referenced case. In support of its Motion, Marathon states as follows:

1. On November 21, 2014, Questcor issued the Subpoena to Marathon. (Ex. 1, attached hereto.)
2. Today, March 17, 2015, which is the date agreed to by Marathon and Questcor for compliance with the Subpoena, Marathon timely served its responses and objections to the Subpoena. (Ex. 2, attached hereto.)
3. Counsel for Marathon and counsel for Questcor have engaged in numerous discussions regarding Marathon’s objections in an effort to narrow the scope of the Subpoena. Though Questcor has agreed to narrow its requests to some extent, as discussed in Marathon’s

Memorandum, filed concurrently herewith, Marathon and Questcor have been unable to reach an agreement with respect to certain documents that contain Marathon's sensitive and proprietary forward-looking business strategies. Marathon and Questcor are now at an impasse regarding compliance with the Subpoena. (*See* N.D. Ill. L.R. 37.2 Certificate of Compliance; Ex. 37.2 Statement, attached hereto.)

4. Accordingly, Marathon, a company with its headquarters in Northbrook, Illinois, brings the present Motion in the Northern District of Illinois. *See* Fed. R. Civ. P. 45(d)(3)(A), (B). (*See also* Ex. 4, attached hereto.)

5. For the reasons set forth in Marathon's Memorandum, which are incorporated by reference herein, Marathon requests that the Court modify the Subpoena and order other relief as appropriate. These reasons include:

- a. Marathon's status as a non-party in the above-referenced case and as a third-party competitor of the named parties, which deserves special weight and entitles Marathon to greater protection from undue burden and the harm disclosure would cause to Marathon;
- b. The Subpoena seeks confidential and proprietary information regarding Marathon's business and commercial strategies, and Questcor has failed to carry its burden to demonstrate that the relevance or necessity of the documents to the underlying litigation outweigh the burden and the harm disclosure would cause to Marathon; and
- c. The Joint Stipulation Governing Confidential Material (the "Protective Order") in the underlying litigation does not sufficiently protect Marathon's interests. (*See* Ex. 3, attached hereto.)

WHEREFORE, for the foregoing reasons, Marathon respectfully requests that the Court grant its Motion to modify the Subpoena, award costs relating to its response to the Subpoena, and award any other relief that the Court finds appropriate.

Dated: March 17, 2015

Respectfully submitted,

s/ Daniel R. Lombard

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Daniel R. Lombard (Attorney No. 6290071)  
KIRKLAND & ELLIS LLP  
300 North LaSalle  
Chicago, Illinois 60654  
Telephone: (312) 862-2000  
Facsimile: (312) 862-2200  
dlombard@kirkland.com

Jay P. Lefkowitz, P.C. (*pro hac vice*  
application forthcoming)  
Adam T. Humann (*pro hac vice* application  
forthcoming)  
KIRKLAND & ELLIS LLP  
601 Lexington Avenue  
New York, New York 10022  
Telephone: (212) 446-4800  
Facsimile: (212) 446-4900  
lefkowitz@kirkland.com  
adam.humann@kirkland.com

*Attorneys for Non-Party Marathon  
Pharmaceuticals, LLC*

**CERTIFICATE OF SERVICE**

The undersigned, Daniel R. Lombard, an attorney, hereby certifies that on March 17, 2015, he caused a copy of the attached **Non-Party Marathon Pharmaceuticals, LLC's Motion to Modify Defendant's Subpoena to Produce Documents** to be served on the following entity by email and U.S. mail.

Rocky C. Tsai  
Ropes & Gray LLP  
Three Embarcadero Ctr.  
San Francisco, California 94111  
rocky.tsai@ropesgray.com

*s/ Daniel R. Lombard*